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| INFO | LOG-00  | NP-00   | AID-00 | AMAD-00 | USNW-00 | CIAE-00 | INL-00  |
|      | DODE-00 | DOTE-00 | DS-00  | EB-00   | EUR-00  | FAAE-00 | FBIE-00 |
|      | UTED-00 | FOE-00  | FRB-00 | H-00    | TEDE-00 | INR-00  | IO-00   |
|      | LAB-01  | L-00    | AC-00  | DCP-00  | NSAE-00 | NSCE-00 | OMB-00  |
|      | NIMA-00 | PA-00   | PER-00 | GIWI-00 | ACE-00  | SCT-00  | SSO-00  |
|      | SS-00   | ASDS-00 | FMP-00 | BEG-00  | R-00    | SCRS-00 | DSCC-00 |
|      | PRM-00  | G-00    | SAS-00 | SWCI-00 | /001W   |         |         |

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TO SECSTATE WASHDC 3196

INFO ORGANIZATION FOR SECURITY COOPERATION IN EUROPE

RELEASED IN PART

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SENSITIVE

DEPT FOR DRL (KUCHTA-HELBLING), L/HRR (HARRIS) AND EUR/RPM.

E.O. 12958: N/A

TAGS: OSCE, PREL, PHUM, PTER, KJUS, KISL

SUBJECT: U.S. CRITICIZED AT OSCE MEETING ON HUMAN RIGHTS  
AND TERRORISM

This message is Sensitive But Unclassified. Please handle accordingly.

1. (U) SUMMARY. Discussions at the Supplementary Human Dimension Meeting (SHDM) on Human Rights and the Fight Against Terrorism (Vienna, July 14-15, 2005) centered on three main topics: freedom of religion, torture, and the role of civil society. Issues raised included: balancing civil liberties and security; discrimination against Muslims; politically motivated crackdowns on religious groups in the name of combating terrorism; fair trials and torture prevention; the practice of rendition; access to places of detention; and victims' rights and reparations. The U.S. faced stiff criticism, especially from American NGOs, who alleged that post-9/11 policies have resulted in restrictions on civil liberties and mistreatment of detainees. In response, U.S. representatives explained policies to respond to and prevent racial profiling and detainee abuse. NGOs gave detailed reports on human rights abuses in Chechnya, triggering a Russian tirade and walkout followed by a lengthy discussion of Russia's behavior. Because of the focus on the U.S. and Russia, systematic abuses in Uzbekistan and Turkmenistan were hardly discussed. END SUMMARY.

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## ----- BACKGROUND -----

2. (U) The SHDM gathered over 200 participants from approximately 45 (of 55) OSCE participating States (pS). Nearly 50 international and non-governmental organizations also attended. Keynote speakers were Council of Europe Secretary General Terry Davis and UN Special Rapporteur on Torture Manfred Nowak. The U.S. Delegation consisted of Robert Harris (L/HRR), [REDACTED] (DoD, Office of Detainee Affairs), Timothy Keefer (DHS, Office for Civil Rights), and Catherine Kuchta-Helbling and Cheryl Clayton (DRL).

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3. (U) This was the first OSCE meeting devoted to human rights and the fight against terrorism; the subject has been discussed previously in the context of other topics or during side events. While the USG recommended last year that this SHDM focus on protecting religious freedom during the fight against terrorism, other pS favored broadening the topic. In particular, Denmark strongly pushed to add a session on preventing torture, and the Slovenian OSCE chairmanship insisted on having a session on civil society.

## ----- CRITICISM OF THE U.S. -----

4. (U) Considerable discussion focused on U.S. policies. All three American introducers chosen by ODIHR used their statements solely to focus on the U.S., including direct criticism of individuals in the administration. Other NGOs, as well as participating States, joined in. In all cases, U.S. delegation members countered the criticism, and even held a special side event to highlight the USG's proactive outreach to Muslim communities through DHS and DoJ programs.

5. (SBU) Michael Posner, Director of the NGO Human Rights First and introducer of the session on preventing torture, used his entire 15-minute statement and another 10-minute rebuttal to argue that post-9/11, the USG has undermined the rule of law and restricted citizens' civil liberties. He pointed directly to Defense Secretary Rumsfeld, Attorney General Gonzales, and President Bush for violating international commitments and rule of law and for authorizing the use of 25 methods of interrogation formerly considered torture. Posner's criticisms focused heavily on unlawful

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detentions and on the practice of "rendition" of suspects to countries where they may face torture. He also said that by applying domestic laws only to facilities on its own territory, the U.S. undermines the spirit of these laws and international commitments. He alleged that some 13,000 persons are in U.S. custody worldwide, many of them in secret detention. Posner said that the U.S. has lost moral authority and that it is setting a bad example for other states.

6. (SBU) The U.S. also faced criticism by Georgetown University Research Fellow Genevieve Abdo (an introducer in the session on religious freedom), who claimed that post-9/11 U.S. policies have resulted in the alienation of Muslims from mainstream American society. She faulted the Patriot Act for targeting Muslims, as well as biased media coverage which has led Muslims to perceive U.S. policies as a "war against

Islam." She argued that the USG should increase its funding of civil society as a response. During an informal meeting with USDel, Abdo admitted that her research had been limited to visiting a handful of mosques in the Washington area. She was unaware of USG outreach efforts to Muslim communities, and she did not attend Keefer's side event on DoJ and DHS outreach efforts.

7. (SBU) An AmCit introducer in the session of civil society, Canadian-American Dr. Gus Hosein from London-based Privacy International, focused on the impact of U.S. policies on privacy and civil liberties. Hosein's statement was more balanced than those of the other two American introducers. He noted that, amidst public debate within the U.S., Congress and the courts have corrected many of the most troubling aspects of legislation enacted since 9/11. Nevertheless, he raised concerns that some legal changes are being introduced in such a way as to get around debate. For example, new legislation relating to driver's license identification procedures was attached to an act on funding for tsunami victims, thereby avoiding any debate or criticism.

8. (U) OSCE Parliamentary Assembly (PA) Vienna representative Andreas Nothelle briefed participants on the PA's report on Guantanamo, prepared by Belgian Senator Anne Marie Lizin and released at the July 1-5 PA Meeting in Washington DC. (Full text available at [www.oscepa.org](http://www.oscepa.org).) The report concludes that detention and interrogation at Guantanamo has not been effective in obtaining information for the fight against terrorism, but instead is becoming a counterproductive rallying point for radicals. Lizin recommends the

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establishment of a timetable to close Guantanamo and the repatriation of detainees to their countries of origin. She regretted that the U.S. had not allowed her to visit Guantanamo, and again asked for access to the facility.

9. (U) Robert Harris (L/HRR) responded to Posner's statement on behalf of the U.S. Delegation (full text at <http://osce.usmission.gov/archive/2005/07/julyindex.html>). He explained U.S. policy and underscored U.S. commitment to investigating allegations of abuse and holding perpetrators accountable. He also pointed out that the U.S. is engaged in a literal, not a rhetorical, war on terror against al-Qaeda, recognized as a war in self-defense by the UN Security Council. Under the international law of war, Guantanamo detainees, who are enemy combatants from that war, may be held for the duration of hostilities. However, the USG has never wavered from the prohibition of torture, and all perpetrators of abuse are subject to criminal prosecution.

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Torture  
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10. (U) Many speakers in the session on torture recommended that evidence and confessions obtained through torture be made inadmissible in court proceedings. John Pearse, former Superintendent of the London Metropolitan Police, argued that information gained through torture and psychological manipulation is inherently unreliable. He recommended that all interrogations should be transparent, including by recording them. Several participants also called for an end to secret detention and to the practice of "rendition." Many speakers argued that diplomatic guarantees are insufficient, particularly because NGOs are not allowed to visit detainees after their return to monitor their treatment.

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Civil Society, Victim Compensation  
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11. (U) During the run-up to the SHDM, USOSCE and other Vienna delegations questioned the purpose of the session on civil society, which had been a unilateral Slovenian addition to the agenda. In a bizarre twist, the session ended up focusing on the rights of terrorism victims. Session introducer Irune Aguirrezabal, Director of the Coalition for the International Criminal Court (ICC), discussed policies in her native Spain, which has developed a network of NGOs to assist in the fight against terrorism. She said that all States should make victims' rights a priority, and in

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particular should give victims of terrorism "appropriate compensation" for their injuries and losses. She said the only effective court to deal with such cases is the ICC, and urged the OSCE to establish a working group on victims' rights. Spain supported her proposals, and pointed out that the OSCE already has commitments concerning victims. (Note: Spain insisted on this last year.)

12. (U) Other NGOs raised concerns that governments view

civil society as an impediment to fighting terrorism. The International Helsinki Federation (IHF) said groups monitoring human rights abuses are often branded as supporters of terrorism. An Uzbek NGO held that Uzbekistan's repressive law on religion and belief has made the country more susceptible to extremism and terrorism by preventing youth outreach and education programs. The recent violence in Andijon resulted in a serious situation with many human rights activists jailed and civil society silenced. The official Uzbek representative refuted claims of gross human rights abuses, arguing that the authorities are investigating the Andijon incident and have a video of the terrorists who took captives there.

13. (U) Privacy International's Hosein said that there is a growing disconnect between national and international policies that is stifling democratic debate and blurring jurisdiction lines. Some States are unwilling to change laws at the national level, and instead make their proposals at the EU level in order to avoid political fallout and public debate at home. Laws that protect citizen's rights at the national level are often overridden at the international level. For example, the UK has said there is no need for additional surveillance measures in the UK, but has proposed such measures at the EU level.

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CHECHNYA DISCUSSION SPARKS RUSSIAN WALKOUT  
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14. (U) IHF held a separate side event focusing on the human rights situations in Chechnya and Uzbekistan. NGOs gave detailed reports on human rights abuses in Chechnya, triggering a Russian tirade and walkout followed by a lengthy discussion of Russia's behavior. Because of this focus, Uzbekistan was hardly discussed.

15. (U) NGO representatives affiliated with the IHF who had recently visited Chechnya reported that disappearances and

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torture are commonplace and feed a cycle of further detentions based on names given to Russian interrogators under torture. The local procurator does not have access to lists of persons detained or in so-called "illegal prisons," so families cannot get information on missing persons. In addition, even when families have proof that Russian forces were involved in a disappearance, the procurator's office will not initiate charges. NGOs also raised concern about recent amendments to Russian anti-terrorism legislation currently before the Duma, which would allow a "state of terrorist threat" to be declared in any region for an indefinite period of time. This law would allow significant restrictions on freedom of media and association during these periods, and the authority of military and law enforcement would be broadened.

16. (U) Following the NGO presentation, the Russian representative took the floor and questioned the right of the IHF to hold such an event at an OSCE meeting, and said OSCE meetings were "going downhill." He accused the NGOs of lying, and said that Chechnya is an internal Russian affair and as such should not be raised by others. He added that the OSCE had "tried to participate" in Chechnya, with bad results. He chided the NGOs for not discussing the terrorist acts to which Russia was reacting, and asked why it was that Russia supposedly treated its citizens so badly only in Chechnya. He added that he was not interested in the answer and stormed out of the room, ignoring the NGOs who had started to answer.

17. (U) The meeting then turned into a discussion of the Russian walk out, with Austria arguing that the NGOs should have given a more "balanced" picture by inviting Russia to present at the event up front. At the very end of the meeting, another Russian official, who had gone unnoticed, spoke up to say Russia is working hard to reconstruct Chechnya, and only works with those who are constructive and support the government's Federal Target Program. The U.S. thanked the Russian representative for answering, and pointed out that at OSCE meetings there are no grounds to question the rights of any participant - including NGOs - to raise human rights concerns. The U.S. had also received significant criticism earlier in the day, but chose to respond through dialogue with those who raised concerns. Moreover, all OSCE ps have agreed that human rights issues are not internal affairs, but are the legitimate concern of all other ps.

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COMMENT

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18. (SBU) A significant amount of the debate focused on criticism of U.S. policies. The US delegation was well equipped to handle these criticisms; having a strong delegation paid off. In contrast to the U.S. openness to discussing others' concerns, Russia came across as defensive and unwilling to engage. Unfortunately, the focus on criticizing the U.S. detracted from discussion of States that have a record of ongoing and systematic abuse. NGO representatives from Turkmenistan, for example, had difficulty getting the moderator's attention to take the floor. Those NGO participants from Central Asia and elsewhere who managed to make statements -- at potentially great personal risk -- saw their legitimate criticism of their own governments' systematic abuses ignored when subsequent speakers turned the topic back to the U.S.

19. (SBU) We understand that Slovenia hopes to have a decision on human rights and terrorism for the OSCE Ministerial Council in Ljubljana this December; recommendations from this SHDM are likely to be included. We therefore need to start thinking about which recommendations we support, and which we would oppose. One that received broad support was to have the OSCE formally endorse the Council of Europe's "Guidelines" on protecting human rights in the fight against terrorism. These guidelines include a lengthy section on terrorism victims' rights and encourage states to provide victims and their families "continuing assistance" and "appropriate compensation." This initiative was strongly supported by Spain at the SHDM.

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END COMMENT.

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